



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
Diane Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2302420

Applicant Name: Mel Easter and Jeff Williams of Johnson-Braund Architects for SEED

Address of Proposal: 3642 33rd Ave S

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction of two, 6-story buildings containing a total of 178 apartments connected by a 2-story, 234 vehicle parking garage with 9,011 sq. ft. customer service office. The project includes earth movement of approximately 9,000 cubic yards.

The following approvals are required:

- **Design Review and Development Standard Departures**, pursuant to Chapter 23.41 Seattle Municipal Code.
- **Administrative Conditional Use** – To permit residential use in a mixed-use structure in a C2 zone, pursuant to SMC Section 23.47.006.B.5.
- **SEPA - Environmental Determination**, pursuant to SMC Chapter 25.05.

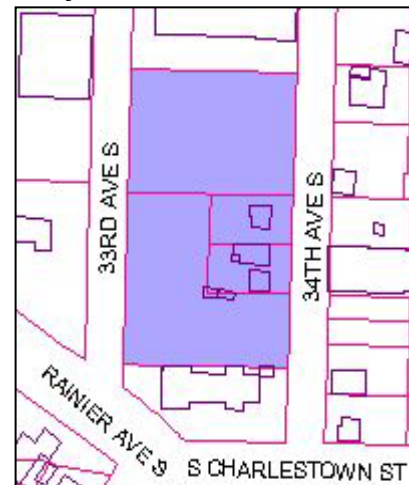
SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☒ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

BACKGROUND

The applicant is proposing a mixed-use project on a parcel located between 33rd Ave S and 34th Ave S. The site is located in the North Rainier Hub Urban Village and also lies within the boundary of SE Seattle Reinvestment Area (SESRA). The proposal includes the demolition of four single family structures. Following demolition, the applicants are proposing to construct two separate structures. One of the structures will be a 6 story 'L' shaped structure containing one floor of ground floor commercial uses with 5 stories of residential units located above. This structure will



predominately front on 33rd Ave S, with a portion extending over to 34th Ave S. The second building will be a five story mixed use structure sited along 34th Ave S, with ground floor commercial and townhouse style residential units, with additional residential units located on four floors above.

Both structures will be joined at and below grade with a combined parking area for both structures. The proposal also calls for approximately 234 parking spaces to be located within the structure. The project will include open space between the two structures in an internal courtyard, along with another open space area along the north portion of the site. This open space along the north part of the project has been designated a 'pedestrian street' designed for both residents and the larger neighborhood.

The project will also require an Administrative Conditional Use Permit, as residential uses in a Commercial 2 (C2) zone require this approval as part of the overall Master Use Permit process.

The site is located in a C2 zone with a 65 foot height limit. Properties in the immediate area on the east side of the project are zoned C1-40 while properties to the west area also zoned C2-65. Properties in the surrounding area are characterized by single family residential uses with some lower density multi-family development and one and two story commercial developments.

The proposal includes the development of street front commercial spaces on 33rd Ave S. A small commercial space is also designed for the 34th Ave S portion of the project. In addition to the commercial spaces, uses proposed on 33rd Ave S include the residential entrance to the residences located above the ground floor uses in this structure as well as the garage entrance. Fronting the north side of the project, along the proposed 'pedestrian street' open space area, will be two story townhouse style residential units. These units would continue to wrap around to the 34th Ave S side of the project. The structure on 34th Ave S will be dominated at ground level with the townhouse style units, with a small residential lobby, two small commercial spaces and a two way entrance/exit to the garage.

Public Comments

Public notice of the Master Use Permit application was published on September 11, 2003 and mailed to neighboring properties within 300 feet of the project site. The public comment period ended on September 24, 2003. One comment letter was received, which was sent after the close of the comment period. The letter expressed concern about additional traffic generated by the project and the allowable height of the project based on the zoning for the site.

In addition, three meetings occurred before the Design Review Board for Southeast Seattle since the project is subject to Design Review. Approximately 15 people from surrounding properties attended these meetings.

ANALYSIS – DESIGN REVIEW

Early Design Guidance meeting – March 25, 2003

On March 27, 2003 the SE Seattle Design Review Board held the Early Design Guidance meeting on this project. At this meeting, the applicants detailed the overall goals of the project

as well as providing graphics, photographs and other display materials to illustrate the conceptual development of the project. At this meeting, the Board also took public comment concerning the proposal from citizens that were in attendance at the meeting. Following their deliberation, the SE Seattle Design Review Board prioritized the following guidelines, identifying by letter and number those siting and design guidelines found in the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*" of the highest priority to this project:

- A-1 Responding to Site Characteristics
- A-2 Streetscape Compatibility
- A-3 Entrances Visible from the Street
- A-4 Human Activity
- A-5 Respect for Adjacent Sites
- A-6 Transition Between Residence and Street
- A-7 Residential Open Space
- A-8 Parking and Vehicle Access
- A-10 Corner Lots
- B-1 Height, Bulk and Scale Compatibility
- C-1 Architectural Context
- C-2 Architectural Concept and Consistency
- C-3 Human Scale
- C-4 Exterior Finish Materials
- D-1 Pedestrian Open Spaces and Entrances
- D-2 Blank Walls
- E-2 Landscaping to Enhance the Building and/or Site

At this meeting, the Board had indicated that they were generally supportive of the overall concept for the site as well as the requested design departures. The Board did direct the applicant to bring additional studies to show how the design of the Open Space plan would encourage use, especially in the courtyard. The Board also indicated the need to hold an interim meeting to look at the development of the plan, the open space, the massing of the towers and the overall site plan.

July 22, 2003 2nd Early Design Guidance meeting

The Board reconvened on July 22, 2003 to further review this project. At this meeting, the applicant brought additional drawings, renderings, elevations and presentation materials to highlight the development of the project to date. Specifically, the applicants brought presentation materials that highlighted the following issues, as previously directed by the Board:

- The development of the commercial spaces oriented onto 33rd Ave S
- The development of the facades on all sides of the building, including the towers, the commercial spaces and the ground related townhouses
- Further information on the Open Space plan, including the courtyard and ground floor 'pedestrian street' on the north end of the property
- Development of the ground floor townhouse structures
- Massing, materials and coloration for the two separate residential towers
- The relationship between the development site and the adjacent site at 3700 Rainier Ave S, shown both in plan and elevation

After visiting the site, considering the analysis of the site and context provided by proponents and hearing public comment, the Design Review Board members provided the following additional siting and design guidance, identifying by letter and number those siting and design guidelines found in the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*" that are of the highest priority to this project:

D-1 Pedestrian Open Spaces and Entrances

The Board again prioritized this guideline to underscore the need to develop clear and identifiable pedestrian entrances to the townhouses and the common entrances to the towers.

Reports of the Early Design Guidance meeting and the Interim Meeting detailed above were mailed to people who attended the meeting and who signed up to receive a copy of the minutes.

Recommendation meeting – November 4, 2003

On November 4, 2003, the Board reconvened to review the progress of the design following their previous meetings. Specifically, the Board was particularly interested in reviewing the applicants response to the guidelines prioritized at their previous meeting on the following issues:

- The overall development of the project in relation to Phase 1 of Rainier Court.
- The use of materials and colors.
- The development and refinement of all facades.
- Detailing of the commercial spaces and the townhouse units on 34th Avenue S.
- The rationale for the departure requests and the design solutions for the open space provided.

Departures from development standards

The following departure from development standards, as allowed under SMC 23.41, were developed over the course of the project:

Request	Standard	Proposal	Rationale	Recommendation
Reduce required Open Space (SMC 23.47.024)	20% of gross floor area in residential use =37,967 SF	17.3% =32,868 SF	Will provide higher quality design that is designed to be used by tenants not just amount to meet standards; balconies are provided, but they do not count in calculation because they are less than the minimum dimensions.	Approve, based on the quality of the design and the fairly minimal size of the departure request. The board wants the play area in the courtyard to be larger.

Summary of recommendation

In general, the Board members in attendance indicated that the project met the Design Guidance that was prioritized at their previous meetings. The Board also indicated that there had been considerable effort by the applicant in developing the design, including addressing the concerns raised at previous meetings about the bulk and scale of the project. The Board complimented the development team on the quality of the presentation and the details provided in the presentation to gain a full understanding of the project's design.

Therefore, after considering the proposed design and the project context and reconsidering the solutions presented in relation to the previously stated design priorities, the Design Review Board members in attendance unanimously recommended **APPROVAL** of the subject design. The Board also unanimously recommended **APPROVAL** of the requested development standard departure from the requirements of the Land Use Code (listed above). No conditions were imposed by the Design Review Board.

DIRECTOR'S ANALYSIS - DESIGN REVIEW

The Director is bound by any consensus approval of the design and requested design departures, except in certain cases, in accordance with Section 23.41.014.F.3. These exceptions are limited to inconsistent application of the guidelines, exceeding the Board's authority, conflicts with SEPA requirements, or conflicts with state or federal laws. The Director has reviewed the Citywide Design Guidelines and finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design. The Director also concurs with the conclusions of the Board that the project does meet the City-wide design guidelines

DECISION - DESIGN REVIEW

The Director accepts the Board's recommendations to approve the project design and the requested departures. Conditions listed below are provided to ensure that the design details approved with this project are implemented through construction.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE

The proposal, to construct a mixed-use structure, includes 178 residential units in a C2 zone. Establishment of residential uses in C2 zones requires approval of an administrative conditional use permit pursuant to the criteria identified at SMC Section 23.47.006.B.5. The applicable criteria are as follows (discussion of consistency with criteria interspersed):

- (1) *Availability of suitable land for C2 activities. Residential uses shall generally be discouraged in areas which have limited vacant land and where, due to terrain and large parcel size, land is particularly suitable for commercial rather than residential development.*

The zone in which the development site is located is generally surrounded by a mix of land uses including automobile repair, light manufacturing, retail and warehousing. Within 1-2 blocks of the development site are residentially zoned properties. The development site of approximately 1.71 acres, or 74,520 square feet, is somewhat irregularly situated for a commercially zoned parcel. The property is bordered by 33rd Ave S on the west and 34th Ave S on the east, with no street frontage on the north or south. The street frontage on 33rd Ave S is visible from Rainier Ave S and the retail shopping center to the south, making commercial on 33rd Ave S an adequate location for a commercial use. However, the visibility of the street frontage on 34th Ave S is not adequate as the street serves residential uses and is not an arterial. Since the only commercially viable street frontage offered by the project site is along 33rd Ave S, the property is not suitable solely for commercial uses.

The shape and terrain of the site, which is rectangular shaped and relatively flat, does not negatively impact the viability of the site for commercial development. However, the fact that no street frontage exists on either the north or south property lines, combined with the inadequate visibility of the street frontage on the east side of the site along 34th Ave S, makes the site only marginally suitable for commercial development. Accordingly, due to commercially viable street frontage being limited to 33rd Ave S, the lack of street frontage along the north and south property lines, and the relatively small parcel size, the project site is not suitable exclusively for commercial development as compared to residential or mixed-use development.

Furthermore, there is a substantial quantity of vacant land and/or underutilized parcels of land which are zoned Commercial, including land zoned C2, C1-65 and C1-40, and are suitable for C2 activities.

- (2) *Relationship to transportation systems. Residential uses shall generally be discouraged in areas with direct access to major transportation systems such as freeways, state routes and freight rail lines.*

The project is located approximately 2 miles from any access point to either Interstate 5 or Interstate 90. Freight rail lines are not located in the immediate area. Rainier Ave S is classified as a state highway route (SR 167). Metro public transit service is located on Rainier Ave S within 1 block of the project site.

While access to freeways, state routes and freight lines is convenient from the site, there is no direct access to major transportation systems from the project site that would be suitable for intensive commercial uses. The project site does provide direct access to public transit routes running along Rainier Ave S of the kind that would be most suitable for residential uses. Additionally, the site will provide convenient access to the proposed Sound Transit light rail passenger system via nearby stations at Columbia City and McClellan, suitable primarily for residential uses.

- (3) *Compatibility with surrounding areas. Explain how the residential use is compatible with the surrounding area.*

The immediate area surrounding the development site is zoned C2-65. Locations within 1 block of the development site are zoned for uses where residential uses are permitted outright, including a C1 zone, L2 zone, and SF 5000 zone. While a nearby light industrial use exists, the project site is not in close proximity to major industrial uses or other nonresidential uses that might create a nuisance or adversely affect the desirability of the area for living purposes.

The project site is well suited for a mixed-use development due to the existence of numerous existing retail and commercial businesses located along Rainier Ave S and in the Rainier Valley Square Shopping Center located less than one block south of the site. No conflict is anticipated.

Two additional criteria for approval of all conditional use applications in commercial zones, stated at SMC Section 23.47.006.A.1 and 2 are as follow:

1. *The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The proposed residential use would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity. Much of the current use of the lot and on adjacent lots in the surrounding commercial zones is underutilized. Redevelopment of the lot should improve on property values in the area, with redevelopment of the site improving on the visual, physical and functional condition of the lot, in part due to the review and approval of the project under the city's Design Review requirements. The parcels in the vicinity are also zoned residential or allow for residential uses outright.

The residential use included in the mixed-use development will be income-restricted, serving exclusively low/moderate income households. Referencing the Neighborhood Plan for North Rainier, this area has been contemplated for different housing types at different income levels and higher density development. It is believed that the impacts associated with affordable housing, including utilities consumption and other public services, would not exceed those of a comparably sized commercial/retail development.

2. *In authorizing a conditional use, adverse impacts may be mitigated by imposing any conditions needed to protect other properties in the zone or vicinity and to protect the public interest. The Director shall deny or recommend denial of a conditional use if it is determined that adverse impacts cannot be mitigated satisfactorily.*

No adverse uses requiring mitigation pursuant to the conditional use authority have been identified. Design Review authority, as part of this Master Use Permit approval, appears sufficient to address potential adverse bulk and aesthetic impacts.

Conclusion

Application of the conditional use criteria to the subject site leads to the conclusion that residential uses should be permitted. The area is suited for a mix of residential and commercial uses. It is not so particularly suited to commercial and industrial uses that residential uses should be disallowed.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The proposal for residential use in a mixed-use structure in a C2 zone is **GRANTED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated August 15, 2003, and annotated by this Department. This information in the checklist, supplemental information provided by the applicant (plans, including landscape plans, traffic analysis), comments from members of the community, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part:

"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation (subject to some limitations)."

Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- construction dust and storm water runoff;
- erosion;
- increased traffic and demand for parking from construction equipment and personnel;
- increased noise levels;
- occasional disruption of adjacent vehicular and pedestrian traffic;
- decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment;
- increased noise; and
- consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: The Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

Noise

In addition to the Noise Ordinance requirements in SMC 25.08, to reduce the noise impact of construction on nearby properties, all other construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays and Sundays from 9:00 a.m. to 6:00 p.m.:

1. Surveying and layout;
2. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. Such construction activities will have a minimal impact on adjacent uses. Restricting the ability to conduct these tasks would extend the construction schedule, thus the duration of associated noise impacts. DPD recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to issues of safety, or which could substantially shorten the total construction time frame if conducted during these hours.

Therefore, the hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DPD Construction Inspections.

As conditioned, noise impacts to nearby uses are considered adequately mitigated.

Grading

An excavation to construct the lower level of the structure areas will be necessary. The maximum depth of the excavation is approximately 4 feet and will produce approximately 9,000 cubic yards of material. The soil removed will not be reused on the site and will need to be disposed off-site by trucks. Approximately 1,500 cubic yards of imported fill will be used on site. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed enroute to or from a site. No conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

Construction Parking

Construction of the project is proposed to last for several months. Concerns were raised through the review process concerning the effect of construction related traffic impacts on adjacent streets. On-street parking in the vicinity is limited, and the demand for parking by construction workers during construction could exacerbate the demand for on-street parking and result in an adverse impact on surrounding properties. Further, truck trips associated with demolition, grading and construction activities may result in additional adverse impacts on surrounding streets and properties.

Accordingly, the owner and/or responsible party shall assure that construction vehicles and equipment are parked on the subject site for the term of construction whenever possible. It is expected that all workers will be able to park on-site once the parking garage phase is completed

and for the remaining duration of construction activity. To further facilitate this effort, the owner and/or responsible party shall submit a construction phase transportation plan. The plan shall identify approximate phases and duration of construction activities, haul routes to and from the site, address ingress/egress of trucks/personnel/equipment and construction worker parking. These conditions will be posted at the construction site for the duration of construction activity. The authority to impose this condition is found in Section 25.05.675B2g of the Seattle SEPA ordinance.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal and include: increased surface water runoff from greater site coverage by impervious surfaces; potentially decreased water quality in surrounding watersheds; increased bulk and scale on the site; increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; increased energy consumption, increased on-street parking demand, and increased vehicle traffic. These long-term impacts are not considered significant because the impacts are minor in scope.

Traffic and Transportation

The project is located approximately 30-feet from Rainier Ave S, which is an arterial. Existing traffic operations in the vicinity show that a level of Service of B and C are present immediately adjacent to the project. As a result of this project, there will be approximately 137 new PM peak hour vehicle trips on adjacent streets. However, the proposed development will likely have no significant adverse impact on the surrounding transportation system and thus mitigation measures would not be necessary, as the level of service on adjacent streets will remain at acceptable levels. No conditioning is warranted.

Based on supplemental census data, the average vehicle available for a household income of 50% of the median income is 1.05. The average vehicles available for a household income of 60% of the median income are 1.18. When applying these calculations to the percentage of low-income residential units proposed with this development, 203 spaces should be provided onsite to mitigate peak parking demand. In this case, the applicant is providing 214 spaces for the residential units. The proposed development will likely have no significant adverse impact on street parking and thus mitigation measures would not be necessary.

Other Impacts

Several adopted Codes and Ordinances and other Agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Specifically, these are the Puget Sound Clean Air Agency (increased airborne emissions); and the Seattle Energy Code (long-term energy consumption). The other impacts not noted here as mitigated by codes, ordinances, or conditions (increased ambient noise; increased pedestrian traffic, increased demand on public services and utilities) are not sufficiently adverse to warrant further mitigation by conditions.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - DESIGN REVIEW

Prior to Issuance of the Master Use Permit

1. Revise the official plan sets to provide a larger play area within the courtyard that extends further north to provide adequate active space for the children living within the development.
2. Revise the official plan sets to provide a differentiation in paving material between the public sidewalk and the private property to provide a sense of ownership for the residence of the townhouses located along 34th Avenue S.
3. Revise the official plan sets to provide screening along the north property line adjacent to the pedestrian street. Examples of screening include decorative fencing and/or shrubbery.

During Construction:

1. All changes to the exterior facades of the building and landscaping on site and in the ROW must be reviewed by a Land Use Planner prior to proceeding with any proposed changes.

Prior to Issuance of a Certificate of Occupancy:

1. Compliance with the approved design features and elements, including exterior materials, roof pitches, facade colors, landscaping and ROW improvements, shall be verified by the DPD Planner assigned to this project. Inspection appointments with the Planner must be made at least 3 working days in advance of the inspection.

CONDITIONS – ADMINISTRATIVE CONDITIONAL USE

None required.

CONDITIONS - SEPA

Prior to issuance of any Construction or Grading Permits

1. The owner(s) and/or responsible party(s) shall secure DPD Land Use Planner approval of construction phase transportation and pedestrian circulation plans. Appropriate SDOT and King County METRO participation in development of the plans shall be documented prior to DPD approval. The plans shall address the following:
 - Ingress/egress and parking of construction equipment and trucks;
 - Truck access routes, to and from the site, for the excavation and construction phases;
 - Street and sidewalk closures;
 - Potential temporary displacement/relocation of any nearby bus stops.

During construction:

1. The owner(s) and/or responsible party(s) shall comply with the construction phase parking plan. A copy of that plan must be kept on-site.
2. All construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays and Sundays from 9:00 a.m. to 6:00 p.m.:
 - Surveying and layout;
 - Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. These hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DPD Construction Inspections.

Signature: (signature on file) Date: November 20, 2003
Bryan Stevens, Land Use Planner
Department of Planning and Development
Land Use Services